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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,463	10/24/2003	Patricia Ruzakowski Athey	1320D2	2526

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PPG INDUSTRIES, INC.  
Intellectual Property Department  
One PPG Place  
Pittsburgh, PA 15272

EXAMINER

BLACKWELL RUDASIL, GWENDOLYN A

ART UNIT PAPER NUMBER

1775

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/693,463

Applicant(s)

ATHEY ET AL.

Examiner

Gwendolyn Blackwell-Rudasill

Art Unit

1775

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) 4-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1 and 3-10 are pending. Claims 1 and 3 are examined on the merits. Claims 4-10 are withdrawn.

#### ***Election/Restrictions***

2. Applicant's election of Group I, claims 1-3 in the reply filed on January 7, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The requirement is still deemed proper and is therefore made FINAL.

#### ***Drawings***

3. The objection to Figure 7 is withdrawn.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

*(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

5. Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent no. 5,693,134, Stephens.

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*Regarding claims 1 and 3*

Stephens discloses a pigment comprised of a substrate with a coating of  $\text{Cu}_x\text{Mn}_{3-x}\text{O}_4$  ( $x$ -1.4 or 1.5), which can have a blue color in transmission, (column 6, lines 32-37, and Table 1). The substrate can be made of glass, (column 8, lines 35-37, claim 6), meeting the requirements of claims 1 and 3.

***Response to Arguments***

6. Applicant's arguments, see pages 6-7, filed January 7, 2005, with respect to Kirby have been fully considered and are persuasive. The 35 USC 102(b) rejection of claims 1 and 3 has been withdrawn.

7. Applicant's arguments filed January 7, 2005 have been fully considered but they are not persuasive with respect to the 102(e) rejections of claims 1-3 under Stephens.

a. Applicant contends that amended claim 1 is a coated article made up of a glass substrate that demonstrates a blue color in transmission and that the light transmitted through the glass substrate has a blue color.

8. Stephens specifically discloses coating a substrate with a coating of  $\text{Cu}_x\text{Mn}_{3-x}\text{O}_4$  ( $x$ -1.4 or 1.5), which can have a blue color in transmission, (column 6, lines 32-37, and Table 1). Stephens also specifically discloses that the coating can be used on a glass substrate as demonstrated in claim 6, (column 8, lines 35-37).

Although Applicant contends that Stephens would not demonstrate a coated glass substrate having a blue color in transmission, Applicant has not demonstrated by an objective showing that such a transmission would not occur.

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For the reasons stated above the 102(e) rejection of present claims 1 and 3 under Stephens stands.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Blackwell-Rudasill whose telephone number is (571) 272-1533. The examiner can normally be reached on Monday - Thursday, 5:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on (571) 272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gwendolyn Blackwell-Rudasill  
Examiner  
Art Unit 1775

  
gbr  
DEBORAH JONES  
SUPERVISORY PATENT EXAMINER